IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 24568 of 2004

Between:

J. Krishna Reddy, S/o. J. Narsimha Reddy, Retired Assistant Director of Agriculture, R/o. H.No. 5-6-512/1, Saraswathi Nagar, Opp: District Cooperative Bank, Nizamabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Represented by its Secretary to Government, Agriculture & Cooperation Department, Andhra Pradesh Secretariat, Hyderabad.
2 The Commissioner & Director of Agriculture, Andhra Pradesh, Opp: L.B. Stadium, Nampally, Hyderabad.
3 The Joint Director of Agriculture, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the action of the first respondent in issuing the impugned G.O.Rt.No.1290, Agriculture & Cooperation (Agrl.II) Department, dated 3-12-1999 as confirmed by the Government in Memo No. 1631/Agrl.II(2)/2000-2, dated 29-4-2000 and G.O.Rt.No.1154, Agriculture & Cooperation (Vig.I) Department, dated 21-12-2001 as further confirmed by the Hon'ble A.P. Administrative Tribunal in O.A.No. 7284 of 2002, dated 3-12-2004 as arbitrary, illegal and set aside the same and pass such other order or orders.

Counsel for the Petitioner: MR.S.SATYAM REDDY

Counsel for the Respondents: GP FOR SERVICES I

The Court at the stage of admission made the following:

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed assailing the order passed by A.P. Administrative Tribunal (for brevity Tribunal) in O.A.No.7284 of 2002, dated 3.12.2004.

2. The petitioner was working as Assistant Director of Agriculture. He retired from service in the year 1996. While so, on 4.9.1997, a charge memo was issued by the Government alleging that he made certain purchases of plants without proper authority and in excess of powers conferred on him. It was also alleged that he purchased the plants from private agencies by paying higher cost. The petitioner submitted explanation to the said charges denying the same. Thereafter an enquiry was conducted and ultimately the Enquiry Officer found that there were lapses on the part of the petitioner. Accordingly furnishing the report of the Enquiry Officer, the Government passed orders in G.O.RT.No.1290, Agriculture and Cooperation (Agrl.II) Department, dated 3.12.1999 imposing cut of 5% pension and also recovery of Rs.1,51,433.60 ps from his DCRG. Against the said order, he filed the above OA before the Tribunal and the learned Tribunal, after considering the matter, held that there was no illegality or infirmity in the enquiry conducted by the Government and therefore confirmed the order passed by the Government. Aggrieved by the said order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that the enquiry was conducted in violation of principles of natural justice. He further submits that when the defence statement was submitted, the Enquiry Officer took the assistance of Joint Director of Agriculture, Nalgonda, and got verified the rates of the plants, that too after a long lapse of nine years after the purchases to have been made by the petitioner and without giving any opportunity, and basing on that ground the Enquiry Officer held that the charges were proved. Therefore he submits that the Enquiry Officer's report itself is not sustainable in law as no proper opportunity was given to him.

4. On the other hand the learned Government Pleader for Services-I submits that when the petitioner himself accepted that there were some lapses on his part in purchasing the plants, it is not open for him to resile from his own commitment and hence the order of the Tribunal as affirmed by the Government cannot be said to be either illegal or contrary to law.

5. In this case we find two formidable issues to be decided. One is about the dereliction of duties by the petitioner and secondly the actual loss sustained by the Government, which was directed to be recovered from the petitioner.

6. As far as the lapses on the part of the petitioner is concerned, it is fully established by the records and his own admission that there were lapses on his part. Under those circumstances, as regards the charge relating to lapses in discharge of duties, it does not require any interference.

7. As regards the second charge, viz., assessment of loss caused to the Government is concerned, we find no proper opportunity was given to the petitioner as the Joint Director of Agriculture, Nalgonda, who was asked to assist the Enquiry Officer, appears to have gathered the rates of the plants and on that basis the loss was assessed. It is to be noted that though the charge relates to purchase of the plants in the year 1994-95 and 1995-96, the rates were collected in 1999. Obviously the rates will be on higher side after a lapse of four or five years. Moreover, the rates furnished by the Joint Director of Agriculture, Nalgonda and how the loss was assessed by the Government, the petitioner was kept in complete darkness, and on this ground, we find that no proper opportunity was given to him while assessing the loss caused to the Government. Therefore, as far as the recovery portion of Rs.1,51,433,60 ps is concerned, we set aside the same and remit the matter back to the Government for fresh consideration with regard to the assessment of the actual loss sustained by it. The Government shall cause the alleged actual loss sustained by it by giving proper notice to the petitioner and pass appropriate orders within a period of four (04) months from the date of receipt of a copy of this order.

8. With the direction indicated above, the Writ Petition is disposed of. No costs.

G.BIKSHAPATHY, J.

22nd February, 2005.

P.S.NARAYANA, J.

SSR

To

1 The Secretary to Government, Agriculture & Cooperation Department, Government of Andhra Pradesh, Andhra Pradesh Secretariat, Hyderabad.
2 The Commissioner & Director of Agriculture, Andhra Pradesh, Opp: L.B. Stadium, Nampally, Hyderabad.
3 The Joint Director of Agriculture, Nalgonda.

4 The Registrar, A.P. Administrative Tribunal, Hyderabad.

5 2 CCs to G.P. for Services-I, High Court of A.P. Hyderabad. (OUT)

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